

REMARKS

Status of the Claims.

Claims 1-7, and 9-38 are pending with entry of this amendment, claims 8, and 39-61 being cancelled and no claims being added herein. Claims 1, 3, 6, 7, 13, 17, 21, 24, 32, and 35 are amended herein. These amendments introduce no new matter. Support is replete throughout the specification (*e.g.*, in the claims as originally filed, in Table 4, at page 51, lines 29-30, and the like).

Election/Restriction.

Pursuant to a restriction requirement made final, Applicants cancel claims 8 and 39-61 with entry of this amendment. Please note, however, that Applicants reserve the right to file subsequent applications claiming the canceled subject matter and the claim cancellations should not be construed as abandonment or agreement with the Examiner's position in the Office Action.

Oath/Declaration.

The Examiner alleged that the oath/declaration was defective because it listed the priority documents PCT/US00/24882 and PCT/US98/03000 a foreign applications under 35 U.S.C. §119, while they should be listed under 35 U.S.C. Applicants have submitted a replacement declaration herewith thereby obviating this rejection.

Sequence Listing Rules.

The Examiner indicated that the application is not in compliance with sequence rules, 37 C.F.R. §§ 1.821-1.825. In particular, the Examiner alleged that sequences 170 and 171 in Table 4 were the same. The Examiner also alleged that the sequence of SEQ ID NO:172 at page 30 is not consistent with the sequence in the sequence listing. The Examiner further alleged that two sequences (KDPJGYVHDAPVPGY, AND KDPYVHDAPVGJPKGY) in claim 4 are not listed in the sequence listing and the two sequences ("KDBJGWHHDAPVGJPKGY" and "KDBJGdYVHDAPVGJPKGY") in claims 24 are not in the sequence listing.

A substitute sequence listing comprising a disk containing the sequence(s) in computer readable form, and a paper copy of the sequence information that has been printed from the floppy disk are provided herewith. The information contained in the computer readable disk was prepared through the use of the software program "PatentIn" and is identical to that of the paper copy. The sequence

listing introduces no new matter. All the sequences therein find support in the application as originally filed.

With respect to the Examiner's comments, Applicants note that there is no rule preventing two sequences from being the same (*i.e.* on sequence being listed twice) as the numbering/labeling is consistent with the Sequence Listing.

Sequence 172 is corrected in the sequence listing provided herewith. The sequences identified in claims 4 and 24 are found in the sequence listing. Applicants note, however, that the third sequence in claim 24 is "KDBJGYVHDAPVGJPKG Y", not "KDBJGWHDAPVGJPKG Y" recited by the Examiner in the Office Action.

In view of the foregoing, Applicants believe the objection to the specification on these grounds should be withdrawn.

Objection to the specification.

The specification was objected to because in formula V, at page 25, subscripts were used for F1 and F2, while the definition for the formula used superscripts. The formula was amended herein to use superscripts for F¹ and F² thereby obviating this objection.

Objections to the claims.

Claim 1 was objected to because the claim contained non-elected species. The non-elected species are canceled with entry of the present amendment thereby obviating this objection.

Claim 4 was objected to because it allegedly recited amino acid sequences without providing SEQ ID NOS. Claim 4 is amended herein to provide SEQ ID NOS thereby obviating this objection.

Claims 13 and 32 were objected to because of the recitation "9-(2,5 (or 2,6)-" in the formulas in the Markush groups because the 2,5- and 2,6- isomers should be cited separately. Claims 13 and 32 are amended herein to recite the compounds separately thereby obviating this objection.

Claims 17 and 35 were objected to because of the typographical errors in the formulas. Claims 17 and 35 are amended to correct the typographical errors thereby obviating this objection.

The Examiner required that Fmoc be recited as a full chemical name in the first occurrence (claim 7). Claim 7 is amended herein to provide the full name of Fmoc thereby obviating this objection.

Obviousness-Type Double Patenting.

Claims 1-7, and 9-38 were rejected under the judicially created doctrine of obviousness-type double patenting in light of claims 1 and 5-13 of U.S. Patent 6,037,137. A Terminal Disclaimer is provided herewith thereby obviating this rejection.

35 U.S.C. §112, second paragraph.

Claims 1-7 and 9-38 were rejected were rejected under 35 U.S.C. §112, second paragraph as allegedly indefinite for the reasons described below.

Claims 1-7 and 9-38 were rejected as allegedly indefinite because claims 1 and 21 recite "aa², aa³, aa⁸, and aa⁹ are independently selected from the group consisting of a amino acid or a dipeptide, however there are no dipeptides *per se* cited in the Markush group. Claims 1 and 21 are amended to clarify that -aa²-aa³-, and -aa⁸-aa⁹- are amino acids or dipeptides as illustrated, for example, in Table 4. Claims 1 and 21 are also amended to clarify that Markush groups pertains to the single amino acids or the amino acids comprising the dipeptides. Applicants believe this amendment obviates this rejection of claims 1-7 and 9-38.

Claims 1-7 and 9-38 were rejected as allegedly indefinite because the formulas of claims 1 and 7 recited F1 and F2 with subscripts, while the definition in the claim used superscripts. Claims 1 and 21 are amended herein so the formula recites F1 and F2 with superscripts thereby obviating this rejection.

Claims 4-7 and 24-27 were rejected as allegedly indefinite because the cited sequences allegedly do not conform to the formulas of claims 1 or 21. In particular, the Examiner noted that the dependent claims would have D as (aa²-aa³), but aa²-aa³ was either present or absent. Claims 1 and 21 are amended herein to clarify that -aa²-aa³-, and -aa⁸-aa⁹- are amino acids or dipeptides as illustrated, for example, in Table 4. Accordingly, -aa²-aa³- can be a single amino acid "D" and the cited sequences conform to the generic formulas. This rejection under 35 U.S.C. §112, second paragraph, should, accordingly, be withdrawn.

Claims 24-27 were rejected as allegedly indefinite because the cited sequences SEQ ID NOs 215, 216, 217, and 218) allegedly did not have the same amino acid sequences with the same "SEQ ID NO:" in the Sequence Listing. This is corrected with entry of the accompanying Sequence Listing thereby obviating this rejection.

Claims 6 and 27 were rejected as allegedly indefinite because Fa was not defined in the claims. Claim 7 is amended to provide a chemical name for Fa thereby obviating this rejection.

Claim 19 was rejected as allegedly indefinite because there was allegedly insufficient antecedent basis for the limitation "Fa" in line 1. Claim 19 recites "The composition of claim 17, wherein said hydrophobic group is Fa.". This claim clearly meets the requirements for antecedent basis. Applicants note the claim is identical in form as claims 18 which **was not** rejected on such grounds. Accordingly the rejection of claim 19 should be withdrawn.

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested. Should the Examiner seek to maintain the rejections, Applicants request a telephone interview with the Examiner and the Examiner's supervisor.

If a telephone conference would expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (510) 769-3513.

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Respectfully submitted,



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